

To: CN=Erin Foresman/OU=R9/O=USEPA/C=US@EPA[]
Cc: CN=Karen Schwinn/OU=R9/O=USEPA/C=US@EPA;CN=Kathleen Goforth/OU=R9/O=USEPA/C=US@EPA;CN=Laura Fujii/OU=R9/O=USEPA/C=US@EPA;CN=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]; N=Kathleen Goforth/OU=R9/O=USEPA/C=US@EPA;CN=Laura Fujii/OU=R9/O=USEPA/C=US@EPA;CN=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]; N=Laura Fujii/OU=R9/O=USEPA/C=US@EPA;CN=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]; N=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]
From: CN=Carolyn Yale/OU=R9/O=USEPA/C=US
Sent: Thur 3/4/2010 5:43:03 PM
Subject: Re: BDCP March 10 Meeting on Purpose and Need - comments from Laura Fujii on Agenda & Purpose & Need.
<http://per2.nwp.usace.army.mil/survey.html>
<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/index.html>

Erin et al, I have added a few observations below.

Does reliable forecast data for water yield exist? Does DWR have these data? Do they not wish to use them and instead stick to "the need for BDCP is to fulfill CVP/SWP water contracts and provide Delta habitat restoration". If so, what tools do we have in NEPA to require them to provide more information regarding need.

RE yield forecast-- For material for making a yield forecast, you could look to the work in support of Water Plan (conducted by DWR). Factors are multiple, complicated-- include a calculation of upstream depletions that could increase over time (depending on population change and associated water use), not to mention the changes in the hydrology of rainfall-dominated and snowpack systems.

As to the 'need' for water supply, isn't that in the service of socio-economic conditions that, with respect to water, could be accommodated in a number of ways? (see my notes below)

As to balancing 'need' for water supply to do ecosystem restoration and water supply reliability-- can we insert some sideboards in the balancing to preclude irreversible and irretrievable consequences that negate the objective? Loss of species is more final than loss of jobs, income, or higher consumer costs (especially if you look to long-term adjustments in economic activity, such as re-employment, shifts in consumer preferences in response to price etc.).

Also, apropos of the CVPIA: It also, you will recall, included provisions for planning ways of improving contractors' supply situation (in the face of environmental water dedication) through a suite of measures such as conservation, fallowing, transfers etc. (see 3406(b)(3)--

Carolyn Yale
US EPA Watersheds Office
phone: 415-972-3482
fax: 415-947-3537
yale.carolyn@epa.gov

From: Erin Foresman/R9/USEPA/US
To: Laura Fujii/R9/USEPA/US@EPA
Cc: Carolyn Yale/R9/USEPA/US@EPA, Karen Schwinn/R9/USEPA/US@EPA, Tom Hagler/R9/USEPA/US@EPA, Kathleen Goforth/R9/USEPA/US@EPA
Date: 03/04/2010 08:07 AM
Subject: Re: BDCP March 10 Meeting on Purpose and Need - comments from Laura Fujii on Agenda & Purpose & Need.

Hi Laura,

Thank you so much for this message. Your comments are very helpful to me. Tom Hagler and I will both be attending (I think? confirm Tom?) and it is important for the three of us to discuss this before the meeting. It would be excellent if you could join the meeting in person or by conference call. I asked Michael Nepstad to include you on the email list but it looks like he didn't. I'll remind him. The goal appears to be obtaining a 5 agency consensus on purpose and need. Preliminary feedback suggests it may be difficult to get consensus.

I am available from 3:00 to 4:00 PM today. I'm off tomorrow but can make time to discuss. After we talk, I can coordinate with Mike Nepstad. If EPA and Corps have a similar P & N in mind, it will be one step toward reaching consensus.

Tom are you available to discuss at 3:00 today? Anyone else want to join?

I am working at home today and can be reached: **Ex. 6 - Personal Privacy** You can also leave voicemail for me at 916-557-5253 or email works too.

Erin Foresman
US EPA Region 9
1325 J Street, 14th floor
C/O Army Corps of Engineers
Sacramento, CA 95814-2922
(916) 557 5253

-----Laura Fujii/R9/USEPA/US wrote: -----

To: Erin Foresman/R9/USEPA/US@EPA
From: Laura Fujii/R9/USEPA/US
Date: 03/03/2010 06:08PM
cc: Carolyn Yale/R9/USEPA/US@EPA, Karen Schwinn/R9/USEPA/US@EPA, Tom Hagler/R9/USEPA/US@EPA, Kathleen Goforth/R9/USEPA/US@EPA
Subject: Re: BDCP March 10 Meeting on Purpose and Need - comments from Laura Fujii on Agenda & Purpose & Need.

Hi Erin,

Thanks for forwarding the proposed BDCP March 10 Purpose and Need Meeting agenda. Yes, it would be a very good idea to meet and discuss our BDCP strategy and key principles we wish to promote. I think it would be a good idea for at least Tom Hagler to attend, if possible, since the goal of the meeting is to have an 5 agency consensus on the 404 & NEPA Purpose and Need statement. I am available to attend, if needed.

Below are my comments in response to your initial thoughts on what the Need Statement should include. These comments are from the perspective of water supply reliability and Bay Delta restoration goals (versus a 404 perspective).

1.) Historically EPA has expressed concern with the CVP water supply allocation method based upon sector, M&I, and Agricultural needs since this allocation methodology does not explicitly consider the long-term reliability of the existing developed water supply; nor does it explicitly consider an ecosystem support allocation for instream and ecosystem beneficial uses (e.g., ecosystem services). Current CVP contract quantities are not based upon the actual quantity of long-term, sustainable, developed water. Therefore, current CVP contract allocations significantly exceed the quantity of water that is normally available. Actual deliveries are routinely well-below the

designated contract quantity.

(Carolyn, Karen, Tom - It is my understanding that we and the State indirectly strive for an allocation of instream water for ecosystem services through our efforts to ensure compliance with water quality criteria, beneficial uses, and habitat goals (e.g. X2, flow requirements). Correct? or does California now have an explicit instream minimum flow requirement?) the contracts do have provisos re limited supplies (due to natural factors or state and federal regulatory); State Board-imposed flow requirements exist for some streams but there's no overall protection. Check out the 'unmet enviro needs' at this website, eg: http://www.waterplan.water.ca.gov/waterpie/faf_data.cfm

re The needs analyses have nothing to do with water availability : their purpose is to justify past and continued 'beneficial use' of the water (presumably, relevant to the state requirements per the USBR permits? Tom?). The relevance I see goes to the questionable beneficial use of higher amounts of water on the westside of the SJ.

2. The Needs Assessments required for long-term CVP contracts have always demonstrated an existing and forecasted need that far exceeds the available supply. Note: existing supply include diversion rates which leave many rivers dry or very dry (e.g., San Joaquin River).

We should talk about the SJ situation-- not that it's directly part of your P/N concerns at this time. However, we might think about how Delta 'ecosystem restoration' plays out on the SJ side. (Settlement to restore upper river includes water supply component that could include pulling make-up water from the lower SJ and/or Delta.)

3. The BDCP has co-equal goals of providing a sustainable water supply and successful ecosystem restoration. These co-equal goals should drive the NEPA and 404 Purpose and Need statement which is the basis for subsequent discussions on alternatives, proposed actions, effects analysis, etc. Erin & Tom - Why would there be different 404 and NEPA Purpose and Need statements? Shouldn't the 404 purpose and need be integrated as part of the NEPA Purpose and Need (I am assuming the 404 goal is LEDPA)?

4. River restoration has evolved with a better understanding of the flow prescriptions required to maintain or restore the ecological health of a river basin. I recommend we continue to press for a basin-wide approach, and one that explicitly allocates water for ecosystems services and a return to a more natural flow regime (see reference information below). ... and not only water but space for that water, and habitat-- as in floodplains. Need to get beyond the hydrograph and flow management, at least (if we're going basin-wide). Doesn't this perspective begin to open up possibilities re range of benefits, too?

From Rivers for Life: Managing Water for People and Nature, Sandra Postel and Brian Richter, Island Press, 2003, pps. 53 -54. Eight general principles for managing river flows:

1. A modified flow regime should mimic the natural one, so that the natural timing of different kinds of flows is preserved.
2. A river's natural perenniality or nonperenniality should be retained
3. Most water should be harvested from a river during wet months, little should be taken during the dry months.
4. The seasonal pattern of higher baseflows in wet seasons should be retained
5. Floods should be present during the natural wet season
6. The duration of floods could be shortened, but within limits
7. It is better to retain certain floods at full magnitude and to eliminate others entirely than to preserve all or most floods at diminished levels.
8. The first flood (or one of the first) of the wet season should be fully retained.

I am available for a meeting or call tomorrow morning or after 3pm, all day Friday, or Tue after noon.

Laura Fujii
Region 9 US Environmental Protection Agency
Environmental Review Office, CED-2
Communities and Ecosystems Division
75 Hawthorne St., San Francisco, CA. USA 94105

phone: 415-972-3852
fax: 415-947-8026
fujii.laura@epa.gov

Erin Foresman---03/03/2010 01:25:49 PM---Hi All, There is a BDCP, five federal agency, meeting on 3/10/10 on purpose and need. Laura, please

From:
Erin Foresman/R9/USEPA/US

To:
Laura Fujii/R9/USEPA/US@EPA

Cc:
Carolyn Yale/R9/USEPA/US@EPA, Karen Schwinn/R9/USEPA/US@EPA, Tom Hagler/R9/USEPA/US@EPA

Date:
03/03/2010 01:25 PM

Subject:
BDCP Agenda for March 10 Meeting on Purpose and Need

Hi All,
There is a BDCP, five federal agency, meeting on 3/10/10 on purpose and need. Laura, please read the attached and let me know if you think you should be a part of this meeting. NEPA point of view regarding the need statement is important.

There is concern from Watersheds Office/Water Division and the Corps that BOR will use a need statement that reads something like "fulfill BOR/DOI water contracts." I understand that the Watersheds Office and the Corps do not consider this an appropriate need statement under NEPA. The need statment should describe true need for water supply (potentially broken down by sector, municipal, industrial, agricultural) including a list of all contract holders along with an estimate of water needed (voume of water), list of suppliers, and approximate amount of water from providers for every contract holder. Water need information for each contract holder should be based on forecasted water use (potentially per sector) and provide information documenting past years actual water usage including any sales to other municipalities or water transfer agreements.

Please let me know what you think -- potentially we should all discuss this before next weeks meeting.

Thanks,
Erin

Erin Foresman
US EPA Region 9
1325 J Street, 14th floor
C/O Army Corps of Engineers
Sacramento, CA 95814-2922
(916) 557 5253

-----Forwarded by Erin Foresman/R9/USEPA/US on 03/03/2010 01:11PM -----

To: Erin Foresman/R9/USEPA/US@EPA, Tom Hagler/R9/USEPA/US@EPA, <Mary_Grim@fws.gov>, <Barbara_Beggs@fws.gov>, "Idlof, Patricia S" <PIdlof@usbr.gov>, "Victorine, Becky " <rvictorine@mp.usbr.gov>, "Tucker, Michael" <michael.tucker@noaa.gov>, "Redler, Yvette" <Yvette.Redler@noaa.gov>, "Jewell, Michael S SPK" <Michael.S.Jewell@usace.army.mil>, "Clay, Lisa H SPK" <Lisa.H.Clay@usace.army.mil>, "Monroe, Jim " <james.monroe@sol.doi.gov>, "Allen, Kaylee" <kaylee.allen@sol.doi.gov>
From: "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>
Date: 03/03/2010 12:36PM
Subject: Agenda for March 10 Meeting on Purpose and Need
Attached. Lets all come well prepared.
Michael G. Nepstad
Deputy Chief, Regulatory Division
US Army Corps of Engineers, Sacramento District
1325 J Street, Room 1480
Sacramento, California 95814
(916) 557-7262 Fax:(916) 557-6877
michael.g.nepstad@usace.army.mil
We want to hear from you! Submit a customer service survey form.
<http://per2.nwp.usace.army.mil/survey.html>
Need information on the Regulatory Program?
<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/index.html>
<<Agenda for the Federal Agency BDCP Purpose and Need Meeting.doc>>
(See attached file: Agenda for the Federal Agency BDCP Purpose and Need Meeting.doc)

[attachment "Agenda for the Federal Agency BDCP Purpose and Need Meeting.doc" removed by Erin Foresman/R9/USEPA/US]